

May, 1999

WEST VIRGINIA INFORMATIONAL LETTER

No. 115

**TO: ALL PROPERTY AND CASUALTY INSURANCE COMPANIES LICENSED
TO DO BUSINESS IN WEST VIRGINIA AND OTHER INTERESTED PARTIES**

RE: ADJUSTMENT OF TOTAL LOSS AUTO CLAIMS

It has come to the attention of the West Virginia Insurance Commissioner that some automobile insurance policies contain total loss provisions under which the insurer can adjust the loss at an amount less than required by West Virginia law. Specifically, West Virginia Code of State Rules, Title 114, Series 14, Section 7, mandates that a total loss automobile claim must be adjusted using the retail value set forth in the most recent publication of an "Official Used Car Guide." However, insurers are given the option in lieu of a cash settlement of providing a substantially similar vehicle. If this option is selected, the insurer must actually provide the vehicle to the insured. The rule further mandates that any downward deviation from the official Used Car Guide retail amount must be fully documented, specified and itemized, and any downward deviation may only be made on an individual claim basis. For more specific guidance, refer to WV CSR 114-14-7. Any automobile insurance policy which contains an adjustment provision providing for any amount less than the retail value set forth in the "Official Used Car Guide" or for a replacement vehicle which is not substantially similar and immediately available is void, whether or not it has been approved by the West Virginia Insurance Commission.

To assure compliance with West Virginia law, all automobile insurance companies which have total loss adjustment provisions which provide for adjustment in an amount less than the retail value must revise the provision to conform to West Virginia law, and must file the revision with the Rates and Forms Division of the West Virginia Insurance Commission within forty-five (45) days from the receipt of this informational letter.

Inquiries regarding this letter should be directed, in writing, to Thomas Marchio, Director, Rates and Forms Division, or Kathleen Beck, Director, Consumer Services Division, West Virginia Insurance Commission, P.O. Box 50540, Charleston, West Virginia 25305-0540.

Hanley C. Clark
Insurance Commissioner